IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 33125 of 2006(R)

PETITIONER:

BABU,
POLICE HEAD CONSTABLE NO.4888,
DISTRICT ARMED RESERVE, KOLLAM.

BY ADV. SRI.P.R.MILTON

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,MINISTRY OF
HOME AFFAIRS, THIRUVANANTHAPURAM.

2. DEPUTY INSPECTOR GENERAL OF POLICE,
ARMED POLICE BATTALION, THIRUVANANTHAPURAM.

3. THE COMMANDANT,
K.A.P. III BATTALION, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 33125 of 2006

Dated this the 18th day of December, 2006

JUDGMENT

Exts.P1 and P6 orders are under challenge. The petitioner is a Head Constable in the Armed Reserve Wing of the Police Department. Disciplinary proceedings were initiated against him alleging that he was seen in a drunken state while on duty and had abused his superiors and caused delay in the due execution of the work assigned to them. The incident is alleged to have happened on 3.10.1991. The petitioner denied the charges. An enquiry was conducted. The report of enquiry shows that the allegation that the petitioner was seen in a drunken state had not been proved for want of medical certificate. However, the Enquiry Officer found that unnecessary delay was caused by him in boarding the vehicle which was expected to proceed to a different destination for the execution of certain works. Based on the report thus filed, the disciplinary authority found the petitioner guilty and the punishment of barring one increment with cumulative effect was imposed on him. The petitioner filed statutory appeal as also review petition and finally approached the Government also. The disciplinary authority was directed by the Government to follow the correct procedure and to pass fresh orders. Thereafter with due notice

to the petitioner fresh orders were passed. The penalty imposed earlier has been reimposed. The petitioner filed one more petition before the Government. The said petition has been disposed of as per Ext.P6 holding that the petitioner could not make out any new grounds calling for interference by the Government. It was also held that the penalty imposed on him was not disproportionate or excessive having regard to the nature of the misconduct proved against him.

2. Heard both sides. Ext.P6 order was passed on 28.7.2005. Even in this belated writ petition, the petitioner has not chosen to produce all relevant documents before this Court. The appellate order as also the order passed by the first reviewing authority have not been produced. There is no explanation why the petitioner has kept quiet during the last more than one and ½ years and has approached this Court only now. Persons aggrieved are expected to invoke the writ jurisdiction at the earliest opportunity and without unreasonable delay. Though there is no rule laying down any time limit for approaching the Court under Article 226 of the Constitution of India, it has been held by this Court that the party aggrieved will have to approach the Court within a reasonable time and under normal circumstances, three months period is considered as reasonable period. Beyond that, satisfactory explanation is necessary. Hence, the petitioner owes an

explanation as to why he did not approach this court within the reasonable time. There is no explanation whatsoever.

3. The main contention urged by the petitioner is based on a decision of this Court in **Damodaran K.K.** v **State of Kerala** (ILR 2004(2)Ker.634). The petitioner has not taken care to check up whether the above decision still holds good. The position is that the decision reported in ILR 2004(2) 634 stands overruled by the Division Bench decision in **Radhakrishnan Nair v State of Kerala** (2005(3) KLT Page 1). The main contention of the petitioner therefore fails. The argument that the impugned orders have been passed without jurisdiction is totally devoid of any merit. The other contention of the petitioner that he has been found guilty without appreciating the evidence cannot be sustained since this Court is not expected to embark on a re-appreciation or reappraisal of the evidence and to come to a different conclusion in the writ jurisdiction. I have gone through the impugned orders. I find that relevant materials have been taken note of and that the decision does not suffer from any illegality or any error of law apparent on the face of the record. This writ petition, is therefore, liable to be dismissed. I do so.

K.K.DENESAN, JUDGE

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